

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE

v.

THOMAS WRIGHT

Defendant.

)
)
)
)
)
)
)
)
)
)
)

Case ID No.: 1102001031

Submitted: January 12, 2022

Decided: February 22, 2022

ORDER

AND NOW TO WIT, this 22nd day of February, 2022, upon consideration of Defendant Thomas Wright (“Defendant”)’s Motion for Modification of Sentence, the sentence imposed upon Defendant, and the record in this case, it appears to the Court that:

1. On November 23, 2011, Defendant pled guilty to two counts of Rape Third Degree.¹ On February 27, 2012, Defendant was sentenced to a total of 40 years at supervision Level V, suspended after 6 years, followed by various levels of Level IV supervision and probation.² Defendant was found in violation of his

¹ See Plea Agreement, D.I. 18.

² See Sentence Order, D.I. 21. As to the first count of Rape Third Degree, Defendant was sentenced to 20 years at supervision Level V, suspended after 3 years at supervision Level V, for 6 months at supervision Level IV DOC Discretion, followed by 18 months at supervision Level III. As to the second count of Rape Third Degree, Defendant was sentenced to 20 years at supervision Level V, suspended after 3 years at Level V for 2 years at supervision Level III.

probation several times. On August 15, 2018, Defendant was found in violation of his probation and was resentenced.³

2. On March 25, 2019, Defendant filed his first Motion for Modification of Sentence.⁴ This Court denied his motion on July 18, 2019.⁵

3. On January 12, 2022, Defendant filed this Motion for Modification of Sentence.⁶ Defendant now requests to eliminate the Level IV portion of his August 15, 2018, VOP sentence under Delaware Superior Court Criminal Rule 35(b).⁷ Defendant asserts that he would “like to go home to [his]...wife...in Dover...and to a job awaiting him upon release.”⁸ He further claims his request should be granted “because no movement from Level V to IV due to Covid.”⁹

4. Rule 35(b) states that the Court “may . . . reduce the . . . term or conditions of partial confinement or probation, at any time.”¹⁰ “Thus, relief under Rule 35(b) is within the sound discretion of the sentencing Court.”¹¹

³ See Violation of Probation Sentence Order, D.I. 47. As to the first count of Rape Third Degree, Defendant was resentenced to 16 years 10 months at supervision Level V, suspended after 6 months at Level V, for 16 years 4 months at supervision Level IV DOC Discretion, suspended after 6 months at supervision Level IV, for the balance to be served at supervision Level III GPS. As to the second count of Rape Third Degree, Defendant was resentenced to 17 years at supervision Level V, suspended for 2 years at supervision Level III.

⁴ See Motion for Modification, D.I. 49.

⁵ See Order Granting in Part and Denying in Part Motion for Modification, D.I. 53.

⁶ See Motion for Modification of Sentence, D.I. 78 [hereinafter Motion].

⁷ See SUPER. CT. CRIM. R. 35(b).

⁸ Motion, at 1.

⁹ *Id.* at 2.

¹⁰ SUPER. CT. CRIM. R. 35(b).

¹¹ See *id.*

5. The Court has reviewed Defendant's Motion and the record in this case and again declines to exercise its discretion and modify the terms of Defendant's Level IV sentence. Defendant was sentenced to Level IV DOC Discretion. Neither COVID nor a prospective job change this Court's decision regarding Defendant's need to transition from Level V to Level IV.

6. Defendant again fails to state sufficient grounds for his requested relief to modify his Level IV sentence to Level III probation. The sentence is appropriate for all of the reasons stated at the time of sentencing at the violation of probation hearing.

IT IS SO ORDERED that Defendant's Motion for Modification of his sentence is **DENIED**.

/s/ Vivian L. Medinilla
Vivian L. Medinilla
Judge

oc: Prothonotary
cc: Defendant
Department of Justice
Investigative Services Office